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Durward I. Faries, JR.

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EXAMINER

WITCZAK, CATHERINE

ART UNIT

PAPER NUMBER

3767

MAIL DATE

DELIVERY MODE

10/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.


1. Claims 17, 51, and 57 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims include the limitation "enabling said intravenous fluid warming device to heat said fluid to said desired temperature within said range of 60°F - 160°F.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claim 17-23 and 51-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Augustine et al (US 2001/0009610) as modified by Mitsunaga et al (US 6,788,885) in further view of Ikegame et al (US 4,747,450).

Augustine et al. disclose in Figure 1 a fluid cassette comprising a fluid line tubing including an inlet (146) and an outlet (148) including connectors, a temperature sensor (paragraph 0030), and a conduction contact disposed about a portion of said fluid flow means to indicate the presence of a cassette



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within the warming device (paragraph 0027). Augustine et al disclose the claimed invention except for the quantity of tubing section providing a residence time enabling warming of the fluid to a desired temperature with the range of 60 –160 °F. Mitsunaga et al teach in columns 1, lines 23-25 and column 6, lines 39-43) that it is known to vary the length of tubing to achieve warming to a desired temperature range. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Augustine et al with varied tubing length to provide for warming of liquid in the tubing to a desired temperature, since such a modification would allow the device to provide sufficiently heated blood when treating patients.

Augustine et al in view of Mitsunaga et al disclose the claimed invention except for the fluid line tubing including a spiral section wherein the fluid flow direction within each tubing section is opposite the fluid flow direction with each adjacent tubing section. Ikegame et al teach in column 4, lines 19-24 that it is known to use a spiral design with reserved fluid flow in adjacent tubing section. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Augustine et al in view of Mitsunaga et al, since such a modification would allow for even temperature distribution without the creation of thermal stress.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine N. Witczak whose telephone number is (571) 272-7179. The examiner can normally be reached on Monday through Friday, 8-5 EST.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

Kevin C. Sirmons